

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

GEORGE BANKS,)
)
 Movant,)
)
 v.) No. 1:10-CV-145-RWS
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)

MEMORANDUM AND ORDER

This matter is before the Court upon the motion of George Banks to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255.

On April 19, 2006, Banks entered a plea of guilty to the charge of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). On June 27, 2006, movant was sentenced to 180 months imprisonment, 3 years of supervised release, and a \$100 special assessment. Banks did not file an appeal.

The Court's records show that movant previously brought a motion for relief under 28 U.S.C. § 2255, which this Court denied on the merits on April 10, 2008. See Banks v. United States, No. 1:06-CV-99-RWS (E.D.Mo.). Banks did not appeal from this judgment. On January 11, 2010, movant filed another § 2255 action, which this Court transferred, as successive, to the United States Court of Appeals for the Eighth Circuit. See Banks v. United States, 1:10-

CV-14-RWS (E.D. Mo.). On June 16, 2010, the Eighth Circuit denied Banks' petition for authorization to file a successive habeas application. See Banks v. United States, No. 10-1446 (8th Cir. 2010).

As amended by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), 28 U.S.C. § 2255 now provides that a "second or successive motion must be certified . . . by a panel of the appropriate court of appeals" to contain certain information. Title 28 U.S.C. § 2244(b)(3)(A) provides that "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application."

Because movant did not obtain permission from the Eighth Circuit Court of Appeals to maintain the instant § 2255 motion in this Court, the Court lacks authority to grant movant the relief he seeks. As such, the instant action will be summarily dismissed, without prejudice.

Therefore,

IT IS HEREBY ORDERED that the instant motion to vacate is **DENIED**, without prejudice, because movant did not obtain permission from the Eighth Circuit Court of Appeals to bring the motion in this Court. See 28 U.S.C. § 2255.

A separate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 22nd day of October, 2010.


RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE